

# **EXHIBIT 5**

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION  
CAUSE NO. EP08CA0215

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NEMESIO CASTRO,  
on behalf of himself and all others  
similarly situated,  
Plaintiff,

V.

COLLECTO, INC., doing business as  
COLLECTION COMPANY OF AMERICA  
and US ASSET MANAGEMENT, INC.,  
Defendants.

----- x

DEPOSITION OF  
SUSAN P. GIORDANO  
May 26, 2009  
11:00 a.m.

Holiday Inn  
929 Hingham Street  
Hingham, Massachusetts  
Rosemary F. Grogan, RPR, CLNR, CSR No. 112993

1 INDEX OF EXAMINATION  
2 WITNESS: SUSAN P. GIORDANO  
3 EXAMINATION PAGE NO.  
4 By Ms. Combs 4  
5

6 INDEX TO EXHIBITS  
7 NO. DESCRIPTION PAGE NO.  
8 1 Complaint - Class Action 4  
9 and Attachments  
10 2 Collection Company of America 4  
11 Documents Bates Nos. CCA000275 - 283  
12 3 Purchase and Sale Agreement 4  
13 Between NCOP Capital, Inc. and  
14 U.S. Asset Management, Inc.  
15 Bates Nos. CCA000284 - 302  
16 4 Fastfax Documents 4  
17 Bates Nos. CCA000303 - 336  
18 5 Welcome to CCA Document 68  
19 Bates No. CCA0001 and CCA00059  
20  
21 (Original exhibits attached to original transcript)  
22  
23  
24

1 APPEARANCES OF COUNSEL  
2 On Behalf of the Plaintiff:  
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4 BY: CATHLEEN M. COMBS, ESQUIRE  
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10 On Behalf of the Defendants:  
11 BUSH & RAMIREZ L.L.C.  
12 BY: KEITH WIER, ESQUIRE  
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15 713-626-1555  
16 kwier@bushramirez.com  
17  
18  
19  
20  
21  
22  
23  
24

1 (Exhibit Nos. 1 - 4 premarked for identification)  
2  
3 SUSAN P. GIORDANO, having been  
4 satisfactorily identified by the production of a  
5 driver's license, and duly sworn by the Notary Public,  
6 was examined and testified as follows:  
7

8 EXAMINATION  
9 BY MS. COMBS:  
10 Q. Could you state your name for the record?  
11 A. Susan Giordano.  
12 Q. And where are you employed?  
13 A. Collecto, Incorporated.  
14 Q. And what is your title?  
15 A. Vice president of risk management and  
16 compliance.  
17 Q. How long have you held that position?  
18 A. Since November 1st of '04, so five years  
19 coming up.  
20 Q. And prior to that, where were you employed?  
21 A. The MWRA, Massachusetts Water Resources  
22 Authority.  
23 Q. And what was your position at Massachusetts  
24 Water Resources Authority?

1 A. Assistant contract manager.  
 2 Q. How long did you hold that position?  
 3 A. About seven and a half years.  
 4 Q. And were you in the same position the entire  
 5 time?  
 6 A. Yes.  
 7 Q. And can you generally describe your job  
 8 responsibilities at MWRA?  
 9 A. I reviewed large construction contracts,  
 10 professional services contract, went through the  
 11 procurement process, and put the contract out to bid.  
 12 Q. And prior to that, where were you employed?  
 13 A. For about four or five months at the Law  
 14 Office of Philip Boncore.  
 15 Q. Could you spell that last name?  
 16 A. B-O-N-C-O-R-E. I had just graduated from law  
 17 school.  
 18 Q. And what was the nature of his practice?  
 19 A. Just general practice.  
 20 Q. And where was he located?  
 21 A. East Boston, Mass.  
 22 Q. And where do you graduate from high school?  
 23 A. Boston College Law School.  
 24 Q. And what year was that?

1 A. 1996.  
 2 Q. And prior to that, were you employed?  
 3 A. I was a full-time mother, but I did go to  
 4 school and work part-time jobs.  
 5 Q. And generally, what were the areas of the  
 6 part-time jobs?  
 7 A. I had four part-time jobs. I was a waitress,  
 8 a big yellow school bus driver, an aerobics instructor  
 9 and a martial arts instructor.  
 10 Q. And where did you go to undergrad?  
 11 A. Bentley College, part-time nights. That's  
 12 when I had -- you know, juggling everything else. I  
 13 graduated in '91.  
 14 Q. And what about graduating from high school?  
 15 A. 1976 at Belmont High School.  
 16 Q. Very resourceful.  
 17 Does that pretty much cover your --  
 18 A. That's it.  
 19 Q. All right. So in your position as VP of risk  
 20 management and compliance at Collecto, could you  
 21 generally describe your job responsibilities?  
 22 A. I guess trying to keep the company in  
 23 compliance with all the federal and state laws and  
 24 regulations regarding collection law; collections,

1 third-party collections, as well as trying to evaluate  
 2 risk for the company by doing research on different  
 3 issues that come up based on whatever we see coming  
 4 forward to our department via complaints, consumer  
 5 complaints or lawsuits.  
 6 Q. In preparation for your deposition today, did  
 7 you look at any documents?  
 8 A. I looked at a few related to --  
 9 Q. Do you recall what you looked at?  
 10 A. Probably everything that I received via -- on  
 11 the Castro case. But you mean as in like ACA documents?  
 12 I'm not quite sure --  
 13 Q. Any documents that you looked at in  
 14 preparation for this deposition?  
 15 A. Oh, nothing in particular. I think I looked  
 16 at --  
 17 MR. WIER: The discovery.  
 18 A. The discovery. That's it.  
 19 Q. Did you look at the ACA Statute of  
 20 Limitations?  
 21 A. Yes.  
 22 Q. And how about the complaint in this case?  
 23 A. I've looked at it. I didn't look at it today.  
 24 Q. And did you look at the deposition of --

1 A. John Burns?  
 2 Q. John Burns?  
 3 A. Yes.  
 4 Q. Specifically, in your duties as vice president  
 5 of risk management and compliance at Collecto, are you  
 6 involved in any of the issues surrounding the purchases  
 7 of portfolios of debts for US Asset?  
 8 A. No, not really, no.  
 9 Q. So, is any portion of your job responsibility  
 10 include anything with respect to US Asset --  
 11 A. No, not unless a lawsuit comes in, I guess, in  
 12 relation to the company; but in relation to Collecto, if  
 13 something were to come our way, then it would.  
 14 Q. So if a debt or a portfolio has been referred  
 15 by US Asset, you might have responsibility, correct?  
 16 A. Well, I don't get involved in that. What  
 17 happens is that UCM (sic) the debt and gives it to  
 18 Collecto to collect on it. I'm not involved in any of  
 19 that.  
 20 That's operations.  
 21 Q. And who is in charge of operations?  
 22 A. Well, Candice O'Brien was in charge.  
 23 Q. So what, if any, situation would you be  
 24 involved in directly addressing issues with respect to

1 debt referred by US Asset --  
 2 A. Only if there was a lawsuit.  
 3 Q. -- Management, Inc.?  
 4 A. Only if there was a lawsuit because I manage  
 5 the litigation for the company.  
 6 Q. Are you involved in determining what cases  
 7 being collected on by Collecto get referred to  
 8 attorneys?  
 9 A. I'm not involved in that process.  
 10 Q. And who is involved in that?  
 11 A. Our Legal-Forwarding Department.  
 12 Q. And who's in charge --  
 13 A. My understanding is, it's Richard Manning, but  
 14 I know he was out on disability for some time. So I  
 15 couldn't tell you who was overseeing it.  
 16 It reports to operations.  
 17 Q. Okay. I'm going to hand you what's been  
 18 marked as Deposition Exhibit No. 1.  
 19 A. Okay.  
 20 Q. Do you recognize this document?  
 21 A. Yes.  
 22 Q. And this is a complaint filed in the case that  
 23 brings us here today, correct?  
 24 A. Yes.

1 Q. Now, if you can look at Exhibit A and Exhibit  
 2 B, those are the last four pages of Exhibit 1?  
 3 A. Mm-hmm.  
 4 Q. Do you recognize the form of Exhibit A?  
 5 A. Yes.  
 6 Q. And were you at all involved in the approval  
 7 process for this document?  
 8 A. Yes.  
 9 Q. What is the purpose of this document?  
 10 A. Notice of legal placement, so it looks like  
 11 it's -- they're considering it for placing with an  
 12 attorney because probably all collection efforts were  
 13 exhausted.  
 14 Q. Okay. And what was your involvement, do you  
 15 recall when this -- strike that.  
 16 What was your involvement in any approval  
 17 process of Exhibit A?  
 18 A. Typically, what would happen would be, they  
 19 would give me a letter -- if it's any different than  
 20 anything that we've had prior.  
 21 Q. Okay.  
 22 A. They would ask me to review it. Operations  
 23 would ask me to review it.  
 24 Q. Okay. And when you review a document like

1 this, what are you looking for?  
 2 A. Well, we naturally want to make sure it's  
 3 compliant with the law. And the review process would be  
 4 to look at any of the ACA documents that we have;  
 5 perhaps talk to legal counsel.  
 6 Q. Let's back up a little bit.  
 7 Are you a member of any professional  
 8 organizations?  
 9 A. ACA Collectors International, and the MAP List  
 10 Attorney Program, which is within ACA. M-A-P List.  
 11 It's Members Attorney Program, but it's called the MAP  
 12 List Attorneys.  
 13 Q. Okay. Any other organizations?  
 14 A. Mass. Bar Association.  
 15 Q. Are you familiar with NARCA?  
 16 A. No.  
 17 Q. Do you regularly receive any publications from  
 18 any legal organization?  
 19 A. I don't think they come -- not from a legal  
 20 organization. I think we get Credit  
 21 & Collectors (sic) -- it's a trade publication. I'm not  
 22 sure of the name.  
 23 Q. Credit & Collections?  
 24 A. Yes, and then there's another one, Collector.

1 I think it's just Collector Magazine; those two  
 2 magazines that come to our department.  
 3 Q. Any others?  
 4 A. No.  
 5 Q. And have you attended any ACA events?  
 6 A. Yes.  
 7 Q. And what was the last one?  
 8 A. I've only attended -- I think I attended one a  
 9 couple of years ago. That was -- I'm not sure of the  
 10 name of it.  
 11 Q. Do you recall where it took place?  
 12 A. It was in Chicago.  
 13 Q. In Chicago. And approximately what year?  
 14 A. Probably 2005.  
 15 Q. Any other events?  
 16 A. Well, I have the Web seminars I attend via the  
 17 computer.  
 18 Q. And approximately how often have you attended  
 19 Web seminars?  
 20 A. Two recently, but it depends. If something  
 21 seems applicable, then, you know, I put in a request.  
 22 Q. What were the recent ones you attended?  
 23 A. The TCPA, and the second one was the Red Flag  
 24 Rules; something like that.

1 Q. What is the Red Flag Rules?

2 A. Regarding computer security, so different  
3 things to look for and making sure you keep your data  
4 safe.

5 Q. Prior to 2007, had you taken any Web seminars?

6 A. I'm sure I did, although I couldn't tell you  
7 what I've taken. Off and on I'll take them.

8 Q. Have you ever taken an ACA Web seminar that  
9 discussed Statute of Limitations?

10 A. No, I don't think I have.

11 Q. Have you ever attended any professional  
12 organization meeting that discussed Statue of  
13 Limitations?

14 A. No, I don't think so.

15 Q. Now, specifically looking at Exhibit A, do you  
16 recall what you were concerned about when you reviewed  
17 this document for approval?

18 A. I think probably first thing that I would have  
19 asked the operations is, you know, "do we place accounts  
20 with attorneys for collection in our client's name?" I  
21 mean the idea is, we never misrepresent. We always want  
22 to state the truth.

23 I get the okay, "yes, we do this; yes, we  
24 do that." Then I say, "that that's fine."

1 MS. COMBS: Could you read back her last  
2 answer?

3 (Record Read)

4 THE WITNESS: Not very eloquent, I'm sorry.

5 Q. Specifically, in your review process of  
6 Exhibit A, did you consider any limitations on when this  
7 letter should be sent to debtors?

8 MR. WIER: I'm going to object to form. May I  
9 say something?

10 MS. COMBS: Sure.

11 MR. WIER: I think it may be misleading  
12 perhaps. "Limitations," do you mean limitations as  
13 in Statute of --

14 MS. COMBS: I do not mean Statute. Let me  
15 rephrase it because that's a good point.

16 MR. WIER: Okay.

17 BY MS. COMBS:

18 Q. When you reviewed Exhibit A, did you put any  
19 requirements on who or when this document should be made  
20 to debtors?

21 A. No.

22 Q. Have you ever done that?

23 A. It depends on which letter.

24 Q. But specifically with respect to this one, you

1 don't recall listing requirements for the mailing of the  
2 letter?

3 A. Well, if it's in a series -- if letter No. 1  
4 had gone out with the proper validation notice, then all  
5 the regular procedures have taken place, then no, other  
6 than the fact it falls into a sequence, in a series of  
7 letters.

8 Q. And in reviewing this document, Exhibit A, for  
9 approval, did you consider or discuss where this letter  
10 was mailed in what sequence?

11 A. I don't recall any specific conversation to  
12 that effect. We -- in general, there's always a process  
13 for following -- I think they call it tactics. Letter  
14 one had to have gone out within a certain period of  
15 time.

16 Any letter after that, we would wait 35  
17 days or more, you know, taking into consideration the  
18 validation period. So that type of thing we always  
19 looked for.

20 Q. Now, how is that implemented for collectors so  
21 that, for example, they are instructed that before you  
22 send Exhibit A, you have to have sent letter one, and  
23 wait 35 days?

24 A. I think that's -- it is all programmed into

1 the IT programming of the way the letter tactics work.

2 Q. And are you involved in working with the IT  
3 people for the programming?

4 A. Not with the programming, no, but they do ask  
5 me, you know, "how many days between letter one" -- that  
6 was asked and answered a long, long time ago. So that  
7 type of thing was asked.

8 Q. Do you recall when Exhibit A was approved by  
9 you, approximately?

10 A. You know what, I couldn't tell you. I know  
11 typically if they send me a letter that, what will  
12 usually happen is, I'll consult with some people. And  
13 once it's been approved through the people that I've  
14 talked with, then I'll give approval. I mean, you  
15 know...

16 Q. Now, above the tear-off portion, there's --  
17 above the bars, there's a number.

18 Does that give you a clue as to when this  
19 document was approved?

20 A. It does not give me a clue, no.

21 Q. Okay. Now, previously, you mentioned that in  
22 reviewing letters for approval, you sometimes contact  
23 attorneys.

24 Who would you contact?

1 A. Well, it could be -- I could talk to our  
2 outside counsel or I could talk to someone on the MAP  
3 list or if I had a question, I could have asked ACA  
4 compliance officer.

5 I don't recall that I did that for this  
6 particular letter.

7 Q. And who was your outside counsel?

8 A. Michael Kraft.

9 Q. And has he been outside counsel for Collecto  
10 since you've been working there?

11 A. Yes, he was there before I got there.

12 Q. And how frequently do you work with Michael  
13 Kraft?

14 A. He comes in once a week.

15 Q. And do you usually see him on that visit?

16 A. Yes, he comes in specifically to the  
17 Compliance Department.

18 Q. Okay. And of the Compliance Department, who  
19 else is employed there?

20 A. We have a compliance manager and a compliance  
21 assistant.

22 Q. Who is your compliance manager?

23 A. Mianne Schall. M-I-A-N-N-E; Schall,  
24 S-C-H-A-L-L.

1 Q. And who is?

2 A. Compliance assistant?

3 Q. Yes.

4 A. A gentleman named Uri, U-R-I, and the last  
5 name is Spinn, S-P-I-N-N.

6 Q. And do they both report to you?

7 A. Yes -- well, Uri reports to Mianne, and Mianne  
8 reports to me.

9 Q. And generally, what is Mianne Schall  
10 responsible for?

11 A. Licensing, annual reports, making sure all the  
12 licenses are up to date, correspondence with debtors,  
13 answering complaints.

14 Q. And Uri, what is he involved in?

15 A. He's the assistant. He's kind of overflow.  
16 He does everything.

17 Q. And generally, what issues are covered in the  
18 once-a-week meeting with Michael Kraft?

19 A. Well, all the litigation that's ongoing; you  
20 know, any issues that come up. When we have an issue  
21 that comes up, I'm busy really investigating it, and  
22 looking into it through operations, or whatever  
23 department I need to work with, to uncover what the  
24 problem is, and try to fix it; really just trying to fix

1 any problems we see that might arise.

2 Q. Anything else that you talk with Michael Kraft  
3 about?

4 A. It could be any compliance issue.

5 Q. Now, specifically, again, looking at Exhibit  
6 A, was there any consideration when you reviewed this  
7 document for approval of what impact, if any, the Statue  
8 of Limitations would have on the sending of this letter?

9 A. Not specifically. As a general practice, CCA  
10 does not litigate on out-of-statute debt. So we  
11 wouldn't have -- you know, I wouldn't have considered  
12 that. It's not our practice to do that.

13 Q. Now, how is it determined by CCA -- and CCA is  
14 Collecto Corporation of America; is that right?

15 A. Collection Company of America.

16 Q. Collection Company of America.

17 And what is Collecto?

18 A. It's Collecto, Inc. doing business as  
19 Collection Company of America or CCA.

20 Q. Okay. How is it determined what the Statute  
21 of Limitations is for a particular debt?

22 MR. WIER: Object to form.

23 A. For a particular debt?

24 MR. WIER: Object to form, but you can answer.

1 A. We don't determine based on debt. I think we  
2 determine based on state, and that's based off the ACA  
3 information we receive.

4 Q. Okay. Is it fair to say that in determining  
5 the Statue of Limitations -- is determined on the  
6 portfolio basis?

7 A. No, I don't think so.

8 MR. WIER: Object to form.

9 BY MS. COMBS:

10 Q. What is the process by which a particular debt  
11 is identified as in or out of statute?

12 A. A particular debt? I don't think that's how  
13 it's determined.

14 Q. All right. How is it determined?

15 A. I think it's determined based on state law.

16 Q. Okay. I'm trying to get to the process; all  
17 right?

18 A. Okay.

19 Q. Okay. So, for example, if you look at Exhibit  
20 A, it's a debt -- US Asset Management debt, and it's  
21 owed, apparently, by Nemesio Castro?

22 A. Mm-hmm.

23 Q. It was originally a Sprint PCS debt, correct?

24 A. Yes, my understanding.



1 Q. And how would it be determined what the Statue  
2 of Limitations of this debt owed by Nemesio Castro?  
3 A. I think because --  
4 MR. WIER: Object to form.  
5 A. I think because the debtor resides in Texas,  
6 they would have applied -- operations would have applied  
7 the four-year Statue of Limitations, which we believe is  
8 the Statue of Limitations in Texas.  
9 Q. Okay. And is there some mechanism for marking  
10 debts as to when the debt expires?  
11 A. I don't know. I think that would be maybe an  
12 IT function.  
13 Q. Or would it be better to talk to someone from  
14 operations?  
15 A. They might have the answer for you.  
16 Q. Okay. Is there any mechanism that you're  
17 aware of whereby CCA identifies a portfolio and the  
18 Statute of Limitation?  
19 A. If there is, I'm just not aware of it. I'm  
20 probably not the right person to ask that question.  
21 Q. Okay. So who would determine whether or not  
22 to send Exhibit A to Nemesio Castro?  
23 A. I think this is the -- you know, I don't know  
24 for sure. I would say this is something that would be

1 handled in our Legal-Forwarding Department.  
2 Q. And so as you sit here, you don't really know  
3 what the mechanism is for determining when Exhibit A is  
4 sent?  
5 A. No.  
6 Q. Let me rephrase that because that was a  
7 negative, negative.  
8 Do you know what the mechanism is for  
9 determining when to send a document of the form of  
10 Exhibit A to a debtor?  
11 A. No, I don't.  
12 Q. Do you know what the mechanism is for  
13 evaluating -- strike that.  
14 Other than your employment at CCA, did  
15 you have, in any of your education or prior employment,  
16 any experience in debt collection?  
17 A. No.  
18 Q. And other than your involvement in this  
19 lawsuit, in your education or employment, did you have  
20 any experience in communications or utility regulations?  
21 A. No.  
22 Q. Did you ever hear of the Federal  
23 Communications Act before this lawsuit?  
24 A. I've heard of it.

1 Q. In connection with --  
2 A. With nothing -- not anything in particular.  
3 Q. When did you first become aware there was a  
4 two-year federal Statue of Limitations on cell phone  
5 debt?  
6 A. I don't think there is one.  
7 MR. WIER: Object to form.  
8 BY MS. COMBS:  
9 Q. When did you become aware there was an issue  
10 as to whether or not the Statue of Limitations on cell  
11 phone debt was two years?  
12 A. With this lawsuit.  
13 Q. Does CCA do any collection of US Department of  
14 Education debt?  
15 A. Yes.  
16 Q. And have you had any activity with respect to  
17 the Statue of Limitations for US Department of Education  
18 debt?  
19 A. There's a separate department that handled all  
20 the Ed. Department debt.  
21 Q. What is that department?  
22 A. We call it the Ed. Department.  
23 Q. And who would be responsible for compliance in  
24 the Ed. Department?

1 A. In the Ed. Department, Judy Comness.  
2 Q. Can you spell her last name?  
3 A. C-O-M-M-E-S-S-O.  
4 Q. Are you aware as to what the Statue of  
5 Limitations is for US Department of Education debt?  
6 A. No, I'm not.  
7 Q. Do you know whether or not the state Statue of  
8 Limitations applied to US Department of Education debt?  
9 A. As I said before, it's a completely different  
10 department that handles that. I have no involvement in  
11 that at all.  
12 Q. Do you know what information on the age of  
13 debt is acquired from the sellers of portfolios?  
14 A. I'm sorry, can you repeat that?  
15 Q. Yes. I'm asking when CCA is collecting on  
16 portfolio debt?  
17 A. Mm-hmm.  
18 Q. Do you know what information is obtained from  
19 the original creditor about the age of the debt?  
20 A. Well, they probably get a service date or a  
21 charge-off date.  
22 Q. And would that be immediately available to the  
23 collector on a particular portfolio?  
24 A. I think it's on every account note; the

1 service date is.

2 Q. Since when was that placed on every account?

3 A. Oh, I don't know. As long as I've been there,  
4 as far as I know.

5 Q. All right. I'm going to have you look at  
6 Exhibit B to Exhibit 1.

7 Do you recognize the form of this  
8 document?

9 A. Yes.

10 Q. And were you involved in the approval process  
11 of Exhibit B?

12 A. I might have been. You know, if I was with A,  
13 I would have been with B as well. Usually I'll only get  
14 it -- get a review of a letter if there are any changes  
15 made, you know, other than the name of the creditor. If  
16 it's something there are no changes made, and it's been  
17 approved by the compliance department in the past, it  
18 might not have come to me; but assuming that it did.

19 Q. Is it fair to say that Exhibit A and Exhibit B  
20 are more recently --

21 A. Yeah, actually, they probably would have  
22 because we haven't had purchased debt that long;  
23 probably 2006, but I'm not positive of the date.

24 And so, I would have received this.

1 Exhibit 2.

2 Do you recognize the form of this  
3 document?

4 A. Yes.

5 Q. And what is this document?

6 A. The account note.

7 Q. And is it normal for you in the context of  
8 your responsibilities to review account notes?

9 A. If a lawsuit came my way, yes, I would look at  
10 it.

11 Q. Okay. Now, is there any information here that  
12 refers to the charge-off date?

13 A. I don't know if they use -- there's a service  
14 date, which is the last date of service that the  
15 consumer would have had with the original creditor.

16 Q. And what line is that on?

17 A. It's towards the top of the first page. It's  
18 on the line where you see list date. It's the next  
19 category in. It says "SRV 2/2/05" for service date.

20 MS. COMBS: Let's go off the record.

21 (Off Record Discussion)

22 BY MS. COMBS:

23 Q. Now, is it 2/2/05 under LST?

24 MR. WIER: Right here.

1 Q. Okay. Let me finish my question before you  
2 answer; okay?

3 A. Okay.

4 MR. WIER: That's all right.

5 BY MS. COMBS:

6 Q. And you started in 2002?

7 A. 2004, November of '04.

8 Q. And as you sit here today, do you recall what  
9 you reviewed on Exhibit B before you approved it?

10 A. No, this looks fairly generic. I might have  
11 asked them, you know, just to make sure everything is  
12 accurate because I don't do the operations portion. So  
13 I rely on them when I'm asking them a question. You  
14 know, "does this happen? Does this typically take  
15 place?"

16 Like we have verified assets in your  
17 name, I probably would have asked, "do we actually do  
18 that?" And they would have told me, "yes, we do do  
19 that." So that's the type of thing I would have asked.

20 Q. And again, do you know whether this length of  
21 the Statue of Limitations at all was considered when you  
22 reviewed Exhibit B?

23 A. No, it was not.

24 Q. I'm going to hand you what's been marked as

1 Q. Oh, I see. All right.

2 Let's look at that line that begins list  
3 01/07/07?

4 A. Mm-hmm.

5 Q. What does that refer to list?

6 A. That's the day the account was placed with  
7 CCA.

8 Q. And then next is SRV?

9 A. Mm-hmm.

10 Q. And that's the?

11 A. The service date.

12 Q. And then after that, it says "LTRS6," what  
13 does that refer to?

14 A. There must have been six letters sent.

15 Q. And then it says --

16 A. Times.

17 Q. "Times 54," what is that?

18 A. I don't know what that means.

19 Q. Do you know what "called 79" means?

20 A. I would assume that's 79 calls.

21 Q. And CON1?

22 A. I don't know what that means.

23 Q. Okay.

24 All right. Specifically referring to



1 Exhibit A, can you show me where on Exhibit 2 it shows  
 2 that Exhibit A was sent?  
 3 A. This is awfully small, so you have to give me  
 4 a moment. It was sent on May 14th of '08.  
 5 Q. And what page are you looking at of Exhibit --  
 6 A. Page 8 of Exhibit 2.  
 7 Q. Okay. And are we looking at the seventh line  
 8 from the bottom? It starts "JQC"?  
 9 A. Yep.  
 10 Q. And that says, "LS No. 58"?  
 11 A. Yep.  
 12 Q. And is that --  
 13 A. That's letter sent No. 58. And if you look on  
 14 this Exhibit A, there's a little 58 here.  
 15 Q. Again, we're referring to this code number  
 16 that is above the tear-off sheet, and it's after the  
 17 second dash, correct?  
 18 A. Yes.  
 19 Q. And does it show Exhibit B being sent,  
 20 Exhibit 2?  
 21 A. Yes.  
 22 Q. And where is that shown?  
 23 A. Second line from the bottom.  
 24 Q. And that's 6/03/08?

1 A. Correct.  
 2 Q. And again "JQC"?  
 3 A. Mm-hmm.  
 4 Q. And then it looks like "LS No. 12"?  
 5 A. Mm-hmm.  
 6 Q. You have to say yes.  
 7 A. Yes, mm-hmm.  
 8 Q. And Exhibit B, again, if you look above the  
 9 tear off, the third -- in the code number, after the  
 10 second dash, there's a 12?  
 11 A. Yes.  
 12 Q. And that conforms --  
 13 A. Corresponds, yep.  
 14 Q. Do you know who JQC is?  
 15 A. Yes, Jacqueline Chandler. She's in our IT  
 16 Department.  
 17 Q. And what is her part in the process?  
 18 A. I don't really know. She's sends out the  
 19 letters based on the tactics that are put in place in  
 20 operations. She doesn't make the determination of when  
 21 to send the letter out.  
 22 Q. And the entry "CB," would that be a collector,  
 23 if you look again --  
 24 A. Yeah, I couldn't tell you.

1 Q. But if a letter was sent, it would be  
 2 indicated in the notes as LR and the number; is that  
 3 correct?  
 4 A. LR is letter requested. LS is letter sent.  
 5 Q. And who requests the letter? What type of  
 6 person?  
 7 A. Someone from operations.  
 8 Q. All right. If you could look on the first  
 9 page of Exhibit 2, and if you could look at the notes  
 10 beginning with the entry and the initials GC?  
 11 A. That's our GC dialer. That's a dialer system.  
 12 That's not a person.  
 13 Q. And what is involved in that first entry  
 14 2/15/07? What happened?  
 15 A. I'm not positive, but it looks like the GC  
 16 dialer would have tried to dial the person's number.  
 17 Q. Is there any indication as to whether or not  
 18 there was contact?  
 19 A. Usually it will say, "left a message." So I  
 20 can't tell from this. So that would be a question to  
 21 ask operations. They would know the answer.  
 22 Q. So on Exhibit 2, does it show anywhere that a  
 23 letter was sent to Mr. Castro?  
 24 A. On 1/26/07, under the JQC, at 1/27, it says,

1 "LS No. 11."  
 2 Q. Do you know if that's the first letter?  
 3 A. That's the first letter.  
 4 Q. And again, I'm going to ask you -- if you  
 5 don't know, you don't know -- what does it mean when --  
 6 in the second entry for GC on page one on "2/15/07, 2000  
 7 DLC letter series answering machine," do you know what  
 8 that refers to?  
 9 A. I do not.  
 10 Q. Again, could you review this to see if there  
 11 were any contacts with Mr. Castro by phone?  
 12 A. What do you mean by "contact"? They actually  
 13 spoke to him?  
 14 Q. Yes.  
 15 A. Left message on an answering machine, but  
 16 that's not speaking with the person. Looks like the  
 17 first one I see -- I don't know if the person spoke to  
 18 them. It says, "left message with a third party" at a  
 19 particular number.  
 20 Q. What page are you on?  
 21 A. I'm on page five. It could have been just  
 22 the -- the MGR, I think, might be a dialer. I'm not  
 23 sure if it's an automatic message. That would be an  
 24 operations question.

1 But it might be the automated message  
2 left a message on the machine, but I'm not sure. "Left  
3 message with third party at that number," that you would  
4 have to check with operations on.

5 Q. Okay.

6 A. Because MGR might be an automated thing. The  
7 MGR -- I think that's the dialer manager, but you would  
8 have to confirm, on December 5th. I don't see a person  
9 here.

10 Again, you know, I see a few more on  
11 December 7th, '07, but I couldn't tell you if an actual  
12 personal was spoken to or it was an automated message  
13 left. Typically, when a collector will speak to a  
14 consumer, there would be a conversation, what took  
15 place. So that, I don't see, and I'm on the last page.

16 On June 9th of '08 -- oh, it says,  
17 "debtor telephoned office." That DTO means debtor  
18 telephoned office, but we didn't call the debtor. They  
19 called in. "Wife called in," it says. So it looks like  
20 maybe the first conversation with a person.

21 Q. Could you look on page eight, the fourth line,  
22 "MGR 12/13/07." It says, "A3 attempt POSS fax"?

23 A. Attempt possible fax.

24 Q. At a particular number?

1 A. Yeah, and I'm not sure what A3 means.  
2 Sometimes it could be a collector, and sometimes it can  
3 be a code for something in the IT Department.

4 Q. Then in the middle on "2/2/08 BEM" --

5 A. Hold on. 2/2/08?

6 Q. Again, on page eight.

7 A. Okay.

8 Q. It says, "no delinquency date. Cannot  
9 report."

10 Do you know what that means?

11 A. I would assume that they're saying they don't  
12 have a delinquency date and they can't report to the  
13 Credit Bureau.

14 Q. Is the delinquency date different from the --

15 Is there any entry on the first page of  
16 Exhibit 2 that refers to a delinquency date?

17 A. I don't think so, but I'm not positive. It  
18 would be a question for operations.

19 Q. And again, on that same page, "5/8/08, 4,000  
20 begin legal collect."

21 Do you know what that refers to?

22 A. I would assume that's when the account goes  
23 from regular collections over to the Legal-Forwarding  
24 Department. That's another question you can confirm

1 with operations.

2 Q. Okay. I'm going to hand you a document that's  
3 been marked as Deposition Exhibit No. 3.

4 Do you recognize this document or the  
5 form of that document?

6 A. Yes.

7 Q. What is that document?

8 A. Purchase and sale agreement between NCO (sic)  
9 and UCM (sic).

10 Q. Normally, in the context of CCA collecting on  
11 a US Asset Management debt, would the purchase and sale  
12 agreement be forwarded to US Asset Management -- or  
13 strike that -- to CCA?

14 A. I assume so, but, you know, I'm not involved  
15 in that process, so I couldn't tell you.

16 Q. So in the normal course of your  
17 responsibilities at CCA, would you not see a purchase  
18 and sale agreement if CCA were collecting a debt from a  
19 U.S. Asset Management portfolio?

20 A. I -- it would actually, I think, goes to  
21 however is overseeing the UCM (sic) debts --  
22 collections.

23 Q. But it wouldn't be you?

24 A. It wouldn't be me. I don't oversee it.

1 Q. And are you ever involved in the negotiations  
2 of the purchase and sale agreement for US Asset  
3 Management?

4 A. No, I'm not.

5 Q. I'm handing you a document that's been marked  
6 as Deposition Exhibit No. 4.

7 A. Mm-hmm.

8 Q. Do you recognize this document?

9 A. I do.

10 Q. What is this document?

11 A. It's a Fastfax from ACA.

12 Q. And how is this document used from CCA?

13 A. Well, we would look at each state's Statue of  
14 Limitations, and that would probably help us -- be one  
15 of the things we would look at when determining whether  
16 we can sue on an account.

17 Q. What else would be looked at?

18 A. What else, what do you mean?

19 Q. You said that Fastfax was one of the things  
20 that CCA would look at when determining whether or not  
21 to sue on an account.

22 What other things would be looked at?

23 A. Oh, okay. Well, whatever attorney we forward  
24 the account to would be looking at the Statue of

1 Limitations for whatever state they're in. They would  
2 be the people to know exactly what the Statue of  
3 Limitations is in their state, what can be sued on, and  
4 what cannot.

5 Q. Is that determination made before the mailing  
6 of Exhibit A or B to Exhibit 1?

7 A. I don't know. I know they look at a variety  
8 of things. You know, whether the person has assets and  
9 probably I would assume that --

10 I'm assuming, so I don't know.

11 Q. And who would make that determination?

12 A. What, could you ask again?

13 Q. Yes --

14 A. Who determines if we sue on an account?

15 Q. Who determines -- Answer that question:

16 Who determines if you sue on an account?

17 A. Operations.

18 Q. And do you know who in operations makes that  
19 determination?

20 A. It would probably be a combination of people,  
21 but, you know, VP of ops. would definitely have a say in  
22 there.

23 Q. And again, are you typically involved in  
24 making any determinations about Statue of Limitations in

1 Internet?

2 A. Typically, mm-hmm.

3 Q. And do you know who would check the Fastfax  
4 Statue of Limitations off the Internet normally in the  
5 normal process of evaluating a debt?

6 A. We check it.

7 MR. WIER: Object to form, but you can answer.

8 A. We try to keep up to date, you know, if we see  
9 something coming along, I go on the MAP list or we're  
10 looking at that website frequently; we probably every  
11 day, a number of times a day.

12 Q. Other than the document you have produced as  
13 Exhibit A, are there any instructions on the Internet  
14 about how to use the Statue of Limitations off of an ACA  
15 Fastfax service?

16 A. No, I think it's just as a reference.

17 Q. Now, in the very beginning it says, "Now get  
18 immediate access to ACA's compliance expertise. Visit  
19 E-Compliance," and it tells where?

20 A. Mm-hmm.

21 Q. Do you ever use that?

22 A. I have used it, yes.

23 Q. And in what kind of circumstance?

24 A. If I have a compliance question that I can't

1 your general job responsibilities?

2 A. No, I just give them -- if anyone is looking  
3 for information, I will give them information.

4 Q. And so if someone asks you on a case-by-case  
5 basis?

6 A. If someone asks, I would probably refer to  
7 this document. I would look to Texas, or wherever it  
8 happened to be. I would read them what it said, and  
9 then they would often go to their counsel in whatever  
10 state they're suing on, and that's probably how a  
11 determination would be made.

12 Q. Okay. Were you the person who secured  
13 Exhibit 4 for use --

14 A. No, I'm sorry.

15 Q. -- by CCA?

16 A. This particular one is April of '09, and I  
17 think I had asked my compliance manager -- I was not  
18 working from the office, and I asked her to pull off --  
19 because we use ACA on-line.

20 And so she pulled off the latest version.  
21 The Texas statute hasn't changed. If ACA has an update,  
22 they typically will tell you when the latest update was.

23 Q. So the actual Fastfax from ACA on Statue of  
24 Limitations that is used by CCA is off of the updated

1 find an answer to on the Fastfax.

2 Q. Have you ever used ACA's compliance expertise  
3 on the question of Statue of Limitations, as you recall?

4 A. Not --

5 MR. WIER: Object to form.

6 A. Not on this type of thing. I'm not sure if  
7 I've ever asked, but I definitely know not on the  
8 two-year Statute of Limitations that you had asked  
9 about.

10 Q. Specifically, have you done any research about  
11 the Statue of Limitations on the Federal Communications  
12 Act?

13 A. Not prior to this lawsuit. I have read a few  
14 things after, but nothing that would suggest that there  
15 is a two-year Statue of Limitations on cell phone debt.

16 Q. And specifically, what did you do when this  
17 lawsuit was filed and you became aware of it?

18 A. Probably would have talked about it with  
19 Michael Kraft, our outside counsel, and I would have  
20 talked about it with John Burns, and our compliance  
21 folks.

22 Q. Do you recall having conversation with Michael  
23 Kraft about the lawsuit, Castro versus Collecto?

24 A. We talk about all lawsuits, yes.

1 Q. Do you recall the first conversation you had  
2 with Michael Kraft about this?

3 A. No, not specifically. Just, in general, we  
4 probably would be in long line of list of things we  
5 talked about. When we talk on Tuesdays, we talk about  
6 each lawsuit we have. So that would be one of the  
7 lawsuits.

8 Q. Do you recall talking with John Burns about  
9 the Castro versus Collecto lawsuit?

10 A. In general, I know I spoke with him about it.

11 Q. Do you recall when you first time spoke to him  
12 about?

13 A. I do not. Probably whenever we got -- as soon  
14 as we got the complaint, I would have talked to him.

15 Q. Do you recall what you said to him and what he  
16 said to you?

17 MR. WIER: Object to form. That's party  
18 investigation after the lawsuit has been filed.  
19 That's privileged. Our position is clear on the  
20 case, and I'm not going to let her divulge  
21 privileged communications.

22 BY MS. COMBS:

23 Q. Are you going to follow your attorney's  
24 instructions?

1 given action?

2 MR. WIER: Object to form, but you can answer.

3 A. Well, I think we always do that. We are  
4 always checking with attorneys. I mean we know this is  
5 just a reference.

6 We've not relying on it as gospel, but we  
7 take it as guidance.

8 Q. But again, specifically, you're not the person  
9 who makes the decision to send Exhibit A or Exhibit B  
10 to --

11 A. Correct.

12 Q. -- to Exhibit 1?

13 So is there any instruction to the person  
14 who determines whether to send Exhibit A or Exhibit B to  
15 Exhibit 1, about when they need to consult with an  
16 attorney about what Statue of Limitations apply?

17 MR. WIER: Object to form, but you may answer.

18 A. I think, you know, if they had asked me or any  
19 of the compliance folks, they would have gotten the  
20 answer that, "based on what we've seen at Fastfax -- on  
21 the Fastfax, this is what we think." We certainly have  
22 always been allowed to consult an attorney, if need be.  
23 But the Statue of Limitations, as I'm understanding it  
24 in Texas especially, I don't think it has changed in a

1 A. Certainly.

2 Q. Okay. Again, referring to Exhibit 4, and if  
3 you could turn to the Texas section, which is page...

4 A. Page 27.

5 Q. Page 27 or CCA329; okay.

6 Instead, look to the very first page of  
7 Exhibit 4, CCA303.

8 A. Mm-hmm.

9 Q. Page 1 of 34.

10 A. Mm-hmm.

11 Q. Under the Statue of Limitations, where it  
12 says -- title, "Statue of Limitations," it says: "The  
13 applicability of statues of limitations vary from  
14 state-to-state and from case to case depending on the  
15 cause of action in the lawsuit. We have listed a few  
16 general statute of limitations here. They are provided  
17 for information only. Check with your own attorney to  
18 determine which, if any, are applicable to a given  
19 action."

20 Do you see that?

21 A. I do.

22 Q. Do you give any instructions to anyone at CCA  
23 about when they ought to check with their attorney to  
24 determine what Statue of Limitations is applicable to a

1 number of years.

2 So when we originally -- I think when the  
3 original tactics went into place, the operations team  
4 has known that -- well, they follow that. They follow  
5 what we say -- what we would have said, and we would  
6 have said, "we rely on Fastfax;" and then they would  
7 have probably gone to the attorney in, you know, in the  
8 state and double-checked.

9 Q. Okay. Now, again, looking at page 33 of 34 of  
10 Exhibit 4, also CCA335.

11 A. Okay.

12 Q. The very last paragraph above the copyright,  
13 it says: "This information is not to be construed as  
14 legal advice. Legal advice must be tailored to the  
15 specific circumstances of each case. Every effort has  
16 been made to assure that this information is up-to-date  
17 as of the date of publication. It is not intended to be  
18 a full and exhaustive information of the law in any  
19 area. This information is not intended as legal advice  
20 and may not be used as legal advice. It should not be  
21 used to replace the advice of your own legal counsel."

22 Do you see that?

23 A. I do.

24 Q. And were you aware of this, I would call,

1 disclaimer, in the ACA manual?

2 A. Definitely.

3 Q. And what, if anything, have you done to make  
4 sure that the ACA manual is properly handled by  
5 collectors at CCA?

6 MR. WIER: Object to form, and ask for a  
7 clarification, what do you mean by "properly  
8 handled"?

9 MS. COMBS: Handled pursuant to the  
10 limitations that are expressly stated in the  
11 document.

12 A. The collectors don't get this.

13 Q. The collectors do not have access to the  
14 Fastfax?

15 A. They get -- we give the information to the  
16 operations staff, as far as I understand, the collection  
17 managers, the vice presidents. There are training  
18 materials, but the Statue of Limitations would not be  
19 something that they would be in charge of.

20 Q. Who would be in charge of it, then?

21 A. Probably the head of operations.

22 Q. But who would be responsible for determining  
23 whether Exhibit A or B to Exhibit 1 was sent; who makes  
24 that determination?

1 A. I think you had asked that question before and  
2 it's the head of operations.

3 Q. On an individual case?

4 A. No, I assume it would be -- you know, I'm not  
5 sure.

6 Q. You're not sure, so I should ask?

7 A. Yes.

8 Q. All right. Do you know whether any  
9 information regarding the Statue of Limitations is  
10 programmed into the consumer -- strike that. Let me  
11 start over.

12 Do you know whether any information  
13 regarding the Statute of Limitations is programmed into  
14 the computer?

15 A. I don't know.

16 Q. Again, if you want to refer to Exhibit 2, is  
17 there a charge-off date listed in Exhibit 2?

18 A. I don't know the answer to that. I know the  
19 service date and the list date.

20 Q. And is there a purchase date of the debt  
21 listed?

22 A. I don't know that.

23 Q. Is the SRV date, that we discussed earlier,  
24 the date of last payment?

1 A. It would be the late date of last service.

2 Q. Do you know what that means?

3 A. The service between the consumer and the  
4 original creditor. So I assume that it was the last  
5 date they had service with the client, I guess.

6 Q. Do you know if that means a payment?

7 A. I don't know definitely, no.

8 Q. Does it list anywhere who the original  
9 creditor is on Exhibit 2?

10 A. It lists the clients as UCM (sic). You'll see  
11 it says, "SPR." That would be Sprint. "450," I couldn't  
12 tell you what that means, and then "US Asset  
13 Management," which would be our client.

14 So it looks to be SPR.

15 Q. Is it your responsibility in your position to  
16 make a determination with respect to an individual debt  
17 whether or not to file a lawsuit?

18 A. No.

19 Q. And is it your responsibility in your position  
20 to determine whether or not a debt is within the  
21 statute?

22 A. No.

23 Q. Is there anything on Exhibit 2 that would  
24 indicate what state the debt was incurred?

1 A. I don't know where it was incurred. I just  
2 see that the debtor resides in Texas.

3 Q. Do you know how the information is inputted  
4 into the computer for the first half of the first page  
5 of Exhibit 2?

6 A. Just a very general understanding, is that our  
7 client probably has some sort of electronic file that  
8 gets downloaded into our system.

9 Q. Is there any information on Exhibit 2 that  
10 indicates that the debt involved with Mr. Castro is a  
11 cellular telephone debt?

12 A. Well, I think just because we know it's  
13 UCM(sic), they -- the Sprint debt is all cell phone.

14 Q. Does the type of debt have any impact on how a  
15 debt is handled? What the collection processes are for  
16 CCA?

17 MR. WIER: Object to form.

18 A. Could you restate that?

19 Q. Yes.

20 I'm wondering, do you have different  
21 processes for cell phone debt as opposed to medical  
22 debt?

23 A. There are different processes. Operations is  
24 in charge of how they handle each different type of



1 debt. They separate it out in dealing with it.

2 Q. That's not part of your responsibility?

3 A. No, it's not.

4 Q. Is there a contract between US Assets and  
5 Collecto?

6 A. I would assume so.

7 Q. Do you know?

8 A. I don't know.

9 Q. Do you know who would know?

10 A. John Burns.

11 Q. Do you know whether any lawsuits have been  
12 filed by US Asset in Texas?

13 A. I don't know.

14 Q. Is that part of your analysis, as to whether  
15 or not to send Exhibit A or B?

16 MR. WIER: Object to form, but you can answer.

17 A. Can you state --

18 Q. I'll rephrase it because it is a bit odd.

19 Now, you earlier determined, when you  
20 reviewed Exhibit A and Exhibit B, that one of the  
21 questions that you asked --

22 A. Do we sue on debt?

23 Q. Is there any instructions to the collectors

24 about whether or not to send Exhibit A or Exhibit B with

1 respect to the question of whether or not this creditor  
2 has actually sued in Texas?

3 A. Well, I don't think it's quite that way. I  
4 think, first, you have to have approval from our client  
5 to be allowed to sue on debt, and I would -- that's an  
6 agreement between the client and CCA, if we're allowed.

7 First, we need authorization to sue on,  
8 and then if there were assets, I suppose, that's when  
9 it's forwarded to whatever state attorney that deals  
10 with the litigation in that particular state. So, you  
11 know, so if it was -- if CCA -- if the client had  
12 authorized it, and there were assets, then it would be  
13 forwarded to an attorney in that particular state, and  
14 they would make the determination as to, you know, the  
15 Statue of Limitations and when we would sue on it.

16 Q. And the question I have is:

17 Prior to the sending of Exhibit A and a  
18 particular debt, is there any instruction to the  
19 collectors, or the person who determines whether to send  
20 Exhibits A or B, to determine, whether the creditor, on  
21 whose behalf Exhibit A and B are sent, had actually sued  
22 in Texas?

23 A. I don't know the answer.

24 Q. Do you know who would?

1 A. Probably Richard Manning or Candice.

2 Q. Now, again, back to Exhibit 4, the Texas  
3 statute --

4 MR. WIER: Before we do that, could we take  
5 just a quick break?

6 MS. COMBS: Sure.

7 (Short Recess)

8 (Record Read)

9 BY MS. COMBS:

10 Q. Looking at Exhibit 4 and Exhibit 2, and again  
11 looking at the Texas Statute, which I believe is on page  
12 CCA329 or 27 of 34?

13 A. Mm-hmm.

14 Q. And it says, "4 years debt." And it says, "a  
15 person must bring suit on the following actions not  
16 later than four (4) years after the day the cause of  
17 action accrues," with respect to, "debt."

18 Okay?

19 A. (No verbal response. Nods head).

20 Q. How would it be determined when the four years  
21 would expire on debt under the Texas Statute?

22 MR. WIER: Objection, form.

23 A. I don't know.

24 Q. And specifically, is there any information on

1 Exhibit 2 that would indicate when that four-year period  
2 would pass with respect to the Castro debt?

3 A. I would assume the service date, but...

4 Q. But you don't really know what the service  
5 date is?

6 A. No, the service date is right here.

7 Q. No, I understand.

8 But you don't know what happened on that  
9 date?

10 A. I would assume that that's the last day a  
11 payment made or a service to the client.

12 Q. Would a service date also include the last  
13 time there was contact with the client?

14 A. I think it would have been more than that, no.

15 Q. So it's your understanding that the service  
16 date is the last date of a payment?

17 A. Yeah, I couldn't tell you if my assumption is  
18 correct, but that's how I understand it.

19 Q. All right. So for purposes of determining the  
20 Texas Statue of Limitations with respect to the Castro  
21 debt, what would be your understanding as to the last  
22 date that a lawsuit could be filed?

23 A. I would defer to the attorney that we would  
24 use in Texas.



1 Q. What information would the person who was  
2 sending Exhibit A or B have with respect to whether or  
3 not a debt could be pursued in litigation?

4 A. Well, I think that's done on a company-wide  
5 basis. It's not done on an individual basis.

6 Q. And what do you mean by that, it's "done on a  
7 company-wide basis"?

8 A. The determination of whether to sue on a  
9 particular debt is based on criteria that's set up prior  
10 to one particular account. It is a strategy by  
11 operations on all debt; everything that we have in the  
12 company.

13 Q. Does that strategy include the question of  
14 whether or not there's been an expiration of the Statue  
15 of Limitations date?

16 A. We don't sue on out-of-statute debt. So I  
17 would assume that a determination is made once the  
18 Statue of Limitations -- we won't sue on anything  
19 outside of that.

20 Q. Do you know whether or not CCA collects --  
21 other than phone litigation, collects on out-of-statute?

22 A. I don't know.

23 Q. What Statue of Limitations did CCA use for  
24 cellular debt in Texas in June of 2007?

1 A. I would assume the four-year Statue of  
2 Limitations in Texas.

3 Q. Currently, what Statue of Limitations is CCA  
4 using for cellular debt in Texas?

5 A. I don't think we specify for cellular debt. I  
6 think we use all debt, four years, Texas.

7 Q. And again, in June of 2007, from what date is  
8 the calculation of the Statue of Limitations dated from  
9 with respect to debt collected by CCA?

10 A. I don't know.

11 Q. And who would know?

12 A. Candice O'Brien.

13 Q. Okay. Do you know whether any Statue of  
14 Limitations types of dates were provided to CCA for the  
15 purposes of the portfolio of which the Castro debt is a  
16 portion?

17 A. I don't know how the portfolio is broken up.  
18 I don't know if it's broken up by state.

19 Q. Okay. And again, looking at Exhibit 2, can  
20 you tell what was the date that this debt was opened;  
21 this collection activity was opened?

22 A. What do you mean, "opened"? It was listed  
23 with CCA on 1/7/07.

24 Q. And that's the list date?

1 A. That's the list date. That's the date when  
2 UCM (sic) placed it with CCA.

3 Q. Do you know what was the date of the last  
4 purchase with respect to the debt of Mr. Castro? Can  
5 you tell that from Exhibit 2?

6 MR. WIER: Say again, date of last purchase?

7 MS. COMBS: Or last use?

8 A. Well, I'm assuming the service date, but...

9 Q. Okay. Do you know what was the date of the  
10 last payment to the creditor?

11 A. I don't know.

12 Q. Do you know what the charge-off date is for  
13 the Castro debt?

14 A. No.

15 Q. Have you done any research on the Statue of  
16 Limitations for cell phone debt?

17 MR. WIER: Objection, form; asked and  
18 answered.

19 BY MS. COMBS:

20 Q. You can answer again.

21 A. As far as I know, there is no two-year Statue  
22 of Limitations on cell phone debt.

23 Q. But have you done research?

24 A. Only a little bit since the lawsuit; not prior

1 to.

2 Q. Okay. Did you ever have -- strike that.

3 Did you have any discussions with anyone  
4 prior to the list date 1/07 of the Castro date, as to  
5 what the Statue of Limitations was on the portfolio of  
6 which the Castro debt is included?

7 A. Not that I recall.

8 Q. Now, is it fair to say that the state law to  
9 apply to the Statue of Limitations means there is  
10 different Statue of Limitations depending on what state  
11 law applies; is that fair to say?

12 MR. WIER: Object to form. Could you say that  
13 again, I'm sorry?

14 MS. COMBS: All right. Let's make it more  
15 concrete.

16 BY MS. COMBS:

17 Q. Looking at Alabama, it lists that "open  
18 accounts," there's a three-year Statue of Limitations,  
19 correct?

20 A. Mm-hmm. I see that, yes.

21 Q. And would that be the Statue of Limitations  
22 that you would apply if a cellular phone debt had --  
23 that the owner -- strike that.

24 A cellular debt from Alabama?

1 A. Well --

2 MR. WIER: Object to form, but you may answer.

3 A. I mean I'd have to read it and think about it,  
4 between that and the contract law, but it wouldn't be  
5 something that I would just apply. It would be  
6 something that there would be a determination made, not  
7 just based on me reading the Statute of Limitations here  
8 for three minutes.

9 Q. Okay.

10 A. I don't think it's a question that I could  
11 answer at the moment.

12 Q. Okay. The question I have for you is:

13 If a phone call went from Texas to  
14 Alabama, what state law would apply in Statute of  
15 Limitations?

16 A. Well, I think that's a procedural question  
17 that probably our attorney would answer.

18 Q. Would that determination be made before the  
19 sending of Exhibit A and B on Exhibit 2?

20 A. I'm not certain.

21 Q. And how could we ascertain that?

22 A. I'm not certain. I think the procedures were  
23 in place long before I got here. So I'm not sure how it  
24 was set up.

1 Q. Did CCA ever contact an attorney with respect  
2 to the determination of what the Statute of Limitations  
3 is for cell phone debt at any time?

4 A. After the lawsuit?

5 Q. Let's start with before the lawsuit.

6 A. Not before the lawsuit, no, not that I know  
7 of.

8 Q. And subsequent to the lawsuit, other than  
9 Mr. Wier, did you contact any attorney?

10 A. Well --

11 MR. WIER: Object to form; asked and answered,  
12 but you can answer again.

13 A. As we said before, it was Michael Kraft.

14 Q. Anyone else?

15 A. And he spoke to, I think, a couple of other  
16 people.

17 Q. Do you know who else he spoke to?

18 A. Manny Newburger probably, and Greg (sic)  
19 Manishin.

20 Q. Did you yourself speak to Manny Newburger or  
21 Greg --

22 A. Manishin. No. I might have sat in on a call  
23 once to one of them, but I'm not really sure.

24 Q. Okay. And did CCA ever get an opinion from an

1 attorney about what the Statute of Limitations is on

2 cellular phone debt, a written opinion?

3 A. No, not that I know of yet.

4 Q. Were you involved in the briefing of the class  
5 brief in the Castro case?

6 A. Could you clarify what you're asking?

7 Q. Are you aware that a motion for class  
8 certification was filed?

9 A. Yes.

10 Q. And CCA had to respond to that motion in  
11 connection with the litigation?

12 A. Yes, I'm aware of that.

13 Q. Did you participate in any discussions with  
14 respect to responding to the class motion?

15 A. I probably would have listened in. I don't  
16 think I would have really participated.

17 Q. Did you do any research in connection with  
18 that brief?

19 A. Offhand, I can't recall.

20 Q. Again, referring to Exhibit 2, does Exhibit 2  
21 show what kind of debt the Castro debt is?

22 MR. WIER: Objection, form; asked and  
23 answered.

24 A. We did talk about that before.

1 Q. Okay. And is that where you referred to the  
2 Sprint --

3 A. Yes, you see on the document, yes.

4 Q. Do you know whether or not, in connection with  
5 the collection of Mr. Castro's debt, any underlying  
6 documents were obtained; for example, billing statement?

7 A. I don't know.

8 Q. Who would know that?

9 A. I would assume the Legal-Forwarding  
10 Department.

11 Q. Are you familiar with the bona fide error  
12 defense that has been asserted by CCA in connection with  
13 this litigation?

14 A. In general, yes.

15 Q. What is your understanding of the factual  
16 basis for the bona fide error defense asserted by CCA in  
17 this litigation?

18 A. Well, I think as long as we have reasonable  
19 procedures in place to prevent errors, and something  
20 comes along that we hadn't foreseen, that we might be  
21 able to raise the bona fide error defense; but I  
22 couldn't tell you more specifically.

23 Q. What procedures did CCA have in place to  
24 prevent the error of sending a letter asserting a claim

1 after Statute of Limitations had expired?

2 MR. WIER: Object to form, but you may answer.

3 A. Well, I think the review of any materials,  
4 whether it's the ACA documents, trade publications,  
5 speaking with attorneys, reviewing the MAP list,  
6 procedures that were in place prior to my arrival when,  
7 I think, other attorneys had been -- there were  
8 discussions with other attorneys in the past, probably  
9 when the company was first set up. I mean all the  
10 structure was in place.

11 And I think in speaking to the attorneys  
12 that deal with litigation on this particular issue, on  
13 an ongoing basis are the procedures that we have.

14 Q. Now, but what, in your procedures did you do  
15 prior to the sending of the letter to Mr. Castro,  
16 specifically what procedures were in place to prevent a  
17 violation of the Statute of Limitations?

18 MR. WIER: Object to form, but you may answer?

19 A. Well, I think the general principle that CCA  
20 follows is, we don't litigate on any out-of-statute  
21 debt. Therefore the legal letters that are going out  
22 would only be on accounts that are within the statutes.

23 Q. And who determines in your procedures when a  
24 debt is in statute?

1 A. Well, I would assume when we first purchase  
2 the debt, we wouldn't purchase it if it was  
3 out-of-statute debt or it was close to being out of  
4 statute. All the strategies are set up by operations,  
5 you know, prior to working any of the debt.

6 Q. Now, it's fair to say that CCA didn't actually  
7 purchase the debt, correct?

8 A. CCA did not.

9 Q. No.

10 So what is CCA's portion -- you said that  
11 CCA wouldn't purchase a debt that was out of statute.  
12 But what is CCA's procedure to make sure that debt, that  
13 it is working, was not out of statute?

14 MR. WIER: Object to form, but you may answer  
15 again.

16 A. UCM (sic) is the debt purchaser. CCA is the  
17 third-party collection agency. UCM lists the accounts  
18 with CCA to collect on behalf of them.

19 At some point -- and I'm not involved in  
20 this process. I think I'm just giving you my  
21 understanding. When it lists -- when any client lists  
22 with CCA, it's reviewed with operations, and the  
23 strategies are put in place for all the accounts at that  
24 point in time.

1 Q. Is there any procedure to review that  
2 procedure to make sure that the Statute of Limitations  
3 is correctly computed?

4 A. I don't know.

5 Q. Who would know?

6 A. Well, I assume John Burns and perhaps Candice.

7 Q. What is your understanding as to the --  
8 current understanding as to the applicability of the  
9 Federal Communications Act Statute of Limitations?

10 A. That it is applicable to carriers, and it's a  
11 tariff, and tariff charges between carriers.

12 Q. And when did you first become aware of this  
13 Statute of Limitations under the Federal Communications  
14 Act?

15 A. After this lawsuit.

16 Q. And when did you first gain your understanding  
17 as to what types of debt the Federal Communications Act  
18 is applicable to?

19 A. Probably from the general discussions that  
20 we've had since the lawsuit.

21 Q. And again, those have been with your in-house  
22 counsel?

23 A. We don't have in-house counsel.

24 Q. Your outside counsel?

1 A. Mm-hmm, yes.

2 Q. Anyone else that you haven't mentioned?

3 A. No.

4 Q. Have you ever talked to Glenn Manishin, you,  
5 yourself?

6 A. No, I don't think so.

7 Q. And have you ever spoken with Manny Newburger?

8 A. Not specifically, myself, no.

9 Q. And have you ever spoken with Elizabeth Simon?

10 A. No. I might have sat in on a conversation  
11 with any one of the three, but not specifically spoke to  
12 them myself.

13 Q. When you were sitting in on the conversation,  
14 who else was present?

15 A. John Burns, as I recall.

16 Q. Now, for purposes of the defense of bona fide  
17 error, obviously there has to be an error; is that fair  
18 to say?

19 A. I would assume so.

20 Q. And what is the error here?

21 A. Well, we don't think we committed an error,  
22 but I think you're supposed to -- you know, I'm not a  
23 litigator, but I understand you present all arguments.

24 Q. What do you mean, "present all arguments"?

1 A. You plan for all contingency. We don't think  
2 there's a two-year Statute of Limitations. But if there  
3 was one, we made the error in not understanding that  
4 there was one.

5 Q. Why was that error an a bona fide error?

6 A. Well --

7 MR. WIER: Object to form. I've been doing  
8 this for 20 years. I'm not even sure what that  
9 means.

10 MS. COMBS: She's lawyer. She can answer the  
11 question.

12 MR. WIER: No, don't answer that question.

13 BY MS. COMBS:

14 Q. Are you going to follow your lawyer's  
15 instructions?

16 MR. WIER: Yes.

17 BY MS. COMBS:

18 Q. Okay. What were CCA's procedures to maintain  
19 to avoid the error that occurred here, if an error  
20 occurred?

21 MR. WIER: Stop. We've been over this about  
22 10 times already. She's already told you about the  
23 ACA procedures, talking to their lawyers --

24 MS. COMBS: I understand, and I'm asking

1 specifically to what procedures were maintained to  
2 avoid the error that took place here?

3 MR. WIER: That is our answer. That's what  
4 she's been telling you, over and over again.

5 MS. COMBS: Are you instructing her not to  
6 answer?

7 MR. WIER: No, answer one more time.

8 A. We do not believe we committed an error.

9 Q. Okay. The procedures that you have testified  
10 to with respect to the bona fide error defense, what is  
11 your opinion as to whether or not they were reasonable?

12 A. Are you asking me, are our procedures  
13 reasonable?

14 Q. Yes.

15 A. Yes.

16 Q. And why are they reasonable?

17 A. Well, I would think between ACA, which is  
18 knowledgeable in collections, and attorneys that have  
19 been doing collections for a number of years and we've  
20 consulted with them, and that the people who have been  
21 dealing in the collection industry for many years have  
22 never come across this, it seems to me that it would be  
23 reasonable to assume that there is no Statue of  
24 Limitations for two years for telephone debt.

1 Q. Did you read the opinion of the court in the  
2 Castro case with respect to the class certification?

3 A. Not that I recall at the moment.

4 Q. Are you aware that in the analysis of  
5 plaintiff's motion for class certification, the court,  
6 in the Castro case, analyzed the question of whether or  
7 not the Statute of Limitations for Mr. Castro's debt,  
8 was the two-year Statute of Limitations under the  
9 Federal Communications Act?

10 MR. WIER: I'm going object to that. Object  
11 to form. Obviously whatever the judge did with  
12 regard to the motion speaks for itself, and it's  
13 not an appropriate question to ask this witness  
14 about what Judge Montalvo said in an opinion that  
15 she hasn't even read.

16 So don't answer that question.

17 BY MS. COMBS:

18 Q. Are you going to follow your attorney's  
19 instructions?

20 A. Yes.

21 MS. COMBS: I'm going to take a quick break  
22 and make sure I've covered everything.

23 MR. WIER: Okay.

24 (Short Recess)

1 MS. COMBS: Let's start by marking this  
2 Exhibit 5.

3 (Exhibit No. 5 marked for identification)

4 BY MS. COMBS:

5 Q. Handing you a document that's been marked as  
6 Exhibit 5, the first page of which -- do you recognize  
7 the first page of it?

8 A. It's a training manual.

9 Q. And I've just given you page CCA59 from that  
10 manual; okay?

11 A. Mm-hmm.

12 Q. Let me ask you generally about the training  
13 manual.

14 Did you participate at all in the  
15 drafting of the training manual?

16 A. No, I think that was in place prior to me  
17 coming on board. We might have made some updates.

18 We're in the process of looking through  
19 it now, but have not done so.

20 Q. Okay. Specifically to looking CCA page 59.

21 A. Okay.

22 Q. The last two sentences, it says: "A Bona fide  
23 error is an error made in good faith without fraud or  
24 deceit. Complete documentation is the key in proving

1 that the violation was an innocent mistake. If you make  
2 an honest mistake, and it can be proved, you and the  
3 company will not be held liable."

4 What documentation are you relying on in  
5 order to show that the bona fide error defense asserted  
6 with respect to Mr. Castro was an innocent mistake?

7 A. What this is, this is talking to a collector  
8 and just telling them, to not lie on the account notes.

9 Q. Okay.

10 A. It should be an extemporaneous understanding  
11 of exactly what went on when they communicated with the  
12 debtor. So it's nothing more than telling them to make  
13 sure you're doing everything properly.

14 Q. Okay.

15 All right. Let me just ask you a few  
16 more questions.

17 In connection with the collection of a  
18 debt referred by US Asset Management, does CCA receive  
19 any documents that describe the nature of the portfolio  
20 being collected on?

21 MR. WIER: I object to form.

22 A. I'm not quite sure what you're asking me.

23 Q. I'm saying, is there any document that would  
24 be conveyed to Collection Company of America perhaps

1 saying, "these are all cellular phone debt"?

2 A. I would assume in the contract.

3 Q. In the original contract between CCA and --

4 A. And USAM.

5 MS. COMBS: Have we been produced that  
6 contract?

7 MR. WIER: I doubt it. I don't think it --  
8 no, I don't know that I knew it was asked for.

9 MS. COMBS: Okay. Just for point of  
10 clarification, if there is a contract between CCA  
11 and US --

12 THE WITNESS: UCM.

13 BY MS. COMBS:

14 Q. Is that what you call it?

15 A. USAM, US Asset Management. It's just an easy  
16 way to say it.

17 MS. COMBS: Can you produce that for us?

18 MR. WIER: I don't see why not, but I need to  
19 make sure it exists.

20 THE WITNESS: If it exists, you would have to  
21 check with John Burns.

22 MS. COMBS: I don't think that will be  
23 necessary, but we would reserve the right to ask  
24 questions about that document.

1 MR. WIER: Okay.

2 MS. COMBS: Otherwise, I have no further  
3 questions at this time.

4 THE WITNESS: Okay.

5 MR. WIER: All right. We'll reserve ours  
6 until the time of trial. Okay. You're done.

7 THE WITNESS: Thank you.

8 (Deposition concluded at 1:00 p.m.)

1 C E R T I F I C A T E

2 COMMONWEALTH OF MASSACHUSETTS )

3 )

4 COUNTY OF PLYMOUTH )

5 I, Rosemary F. Grogan, a Registered

6 Professional Reporter and Notary Public duly

7 commissioned and qualified in and for the Commonwealth  
8 of Massachusetts, do hereby certify:

9 That SUSAN P. GIORDANO, the witness whose  
10 deposition is hereinbefore set forth, was duly  
11 identified and sworn by me, and that the foregoing  
12 transcript is a true record of the testimony given by  
13 such witness to the best of my ability.

14 I further certify that I am not related to any  
15 of the parties in this matter by blood or marriage, and  
16 that I am in no way interested in the outcome of this  
17 matter.

18 IN WITNESS WHEREOF, I have hereunto set my  
19 hand and affixed my notarial seal this 28th day of May,  
20 2009.

21 \_\_\_\_\_  
22 Rosemary F. Grogan, RPR

23 CSR No. 112993

24 My Commission Expires: January 7, 2011



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 11 Esquire, to whom the original deposition  
 12 transcript was delivered.

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1 SIGNATURE / ERRATA SHEET

2 Re: Castro Vs. Collecto, Inc., et al.

3 DEPOSITION OF: Susan P. Giordano 5/26/09

4 I, SUSAN P. GIORDANO, do hereby certify that I  
 5 have read the foregoing transcript of my testimony, and  
 6 I further certify that said transcript it is a true and  
 7 accurate record of said testimony (with the exception of  
 8 the corrections that are noted below).

9 PAGE LINE(S) READS SHOULD READ

10 \_\_\_\_\_  
 11 \_\_\_\_\_  
 12 \_\_\_\_\_  
 13 \_\_\_\_\_  
 14 \_\_\_\_\_  
 15 \_\_\_\_\_  
 16 \_\_\_\_\_

17 Signed under the pains and penalties of  
 18 perjury this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

19 \_\_\_\_\_

20 SUSAN P. GIORDANO Date

21 Subscribed and sworn to before me this \_\_\_\_ day  
 22 of \_\_\_\_\_, 2009.

23 \_\_\_\_\_

24 Notary Public My Commission Expires: \_\_\_\_\_



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